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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,257	03/25/2004	Keith Salvucci	119-0026US	6904
29855	7590	09/05/2007		
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P. 20333 SH 249 SUITE 600 HOUSTON, TX 77070			EXAMINER ULRICH, NICHOLAS S	
			ART UNIT 2173	PAPER NUMBER
			MAIL DATE 09/05/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/809,257

Applicant(s)

SALVUCCI, KEITH

Examiner

Nicholas S. Ulrich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 8, 10, 11, 13, 14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-5, 7, 8, 10, 11, 13, 14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-5, 7, 8, 10, 11, 13, 14, and 16-20 are pending.
2. Claims 1, 2, 3, 10, 14, 17, and 19 have been amended.
3. Claims 6, 9, 12, and 15 have been cancelled.
4. Claims 1-5, 7, 8, 10, 11, 13, 14, and 16-20 are rejected.

### ***Specification***

5. The disclosure is objected to because of the following informalities: Figure numbers should be maintained throughout the disclosure. The drawings specify figures 1A, 1B, 2A, and 2B. Paragraph 0005 and 0006 read "1a" and "1b", however, respectively they should read "1A" and "1B". Paragraph 0012 reads "Fig. 2", however it should read "Fig. 2A" or "Fig. 2B". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1, 2, 3, 5, 7, 8, 11, 13, 14, 16, 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monohan (Avid Xpress Pro for Windows and Macintosh: Visual Quickpro Guide) in view of Harradine (US 6342902 B1).

In regard to claim 1, Monohan discloses a method for manipulating a media file using a program having a graphical user interface on a display associated with a computer having access to the file, wherein the graphical user interface comprises a play head moveable to correspond to different locations within the media file, the method comprising (*Pg 6 Paragraph 5: Monohan discusses how Xpress Pro is a program; Pg 8-9 Figure 2.1: Monohan shows the user interface of Xpress Pro; and Pg 10 Paragraph 2: Monohan discusses the playhead (position indicator) associated with the user interface of the Xpress Pro program*):

continuously moving the play head on the graphical user interface from a first location to a second location (*Pg 13 Paragraph 3 line 2: Monohan discusses manually dragging the position indicator (playhead) through your clip or sequence*); and

concurrently with moving the play head, displaying and audibly broadcasting portions of the media file passed by the play head (*Pg 13 Paragraph 1 and 5: Monohan discusses playing your audio at different speeds in order to locate specific frame based on what you hear. Monohan also discusses the speed of the audio depends on how quickly or slowly you drag. This inherently shows that portions of the media are audibly broadcasted as the play head moves; and Pg 13 and 14 Figure 12.17: Monohan shows the displaying of portions of the media file*).

While Monohan teaches media scrubbing, they fail to show playing back the media at a variable speed based on the distance as recited in the claims. Harradine teaches controlling audio similar to that of Monohan. In addition, Harradine further

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teaches audible play back is at a variable speed determined in proportion to the distance between an initial and second location. It would have been obvious to one of ordinary skill in the art, having the teachings of Monohan and Harradine before him at the time the invention was made, to modify the scrubbing taught by Monohan to include the variable speed of Harradine, in order to obtain scrubbing audio with a variable speed determined in proportion to the distance between the playhead and second location. One would have been motivated to make such a combination because all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

The Harradine source discloses a way of determining the playback speed of a media segment, as a user desires to shuttle through the media segment. To shuttle through audio is similar to that of scrubbing in the fact that an audio segment is played to locate a particular location within the media segment. Monohan teaches scrubbing through audio by selecting a playhead and moving it through the media segment. Monohan also teaches the speed of the audio playback depends on how quickly or slowly you drag the playhead. It would be obvious to one skilled in the art that this would not be the only option for determining the speed of the audio playback during scrubbing. One skilled in the art would recognize other possibilities, like those discussed in Harradine's invention. When clicking the playhead to begin scrubbing through the media segment, the first click would be the current playhead position. Then

the user would move the mouse to a second location to set the speed of the audio playback. Based on the distance between the playhead position (initial position) and the second position, a variable speed can be calculated for the audio playback.

In regard to claim 2, Monohan discloses wherein the displayed and audibly played back portions of the media file are not contiguous within the file (*Pg 14 Paragraph 6: Monohan discusses when you digitally scrub in the Timeline, you will hear six frames of audio at a time in front of the position indicator. This inherently shows that the portions are not contiguous because they are being presented in increments of 6 frames*).

In regard to claim 3, Monohan discloses the method wherein the number of displayed and audibly played back portions is inversely proportional to a speed of the movement of the play head (*Pg 13 Paragraph 5*).

In regard to claim 5, Monohan discloses the method wherein the play head is moved backwards (*Pg 13 Paragraph 5: drag the position indicator to the left inherently shows moving the playhead backwards*).

In regard to claim 8, Monohan discloses a method for playing a media file in a player, wherein the player comprises a play head, the method comprising (*Pg 10*

*Paragraph 2: Monohan discusses the playhead (position indicator) associated with the user interface of the Xpress Pro program):*

*dragging the play head (Pg 13 Paragraph 3 line 2: Monohan discusses manually dragging the position indicator (playhead) through your clip or sequence); and*

*concurrently with dragging the play head, displaying and audibly broadcasting portions of the media file that the play head passes head (Pg 13 Paragraph 1 and 5: Monohan discusses playing your audio at different speeds in order to locate specific frame based on what you hear. Monohan also discusses the speed of the audio depends on how quickly or slowly you drag. This inherently shows that portions of the media are audibly broadcasted as the play head moves; and Pg 13 and 14 Figure 12.17: Monohan shows the displaying of portions of the media file).*

While Monohan teaches media scrubbing, they fail to show playing back the media at a variable speed based on the distance as recited in the claims. Harradine teaches controlling audio similar to that of Monohan. In addition, Harradine further teaches audible play back is at a variable speed determined in proportion to the distance between an initial and second location. It would have been obvious to one of ordinary skill in the art, having the teachings of Monohan and Harradine before him at the time the invention was made, to modify the scrubbing taught by Monohan to include the variable speed of Harradine, in order to obtain scrubbing audio with a variable speed determined in proportion to the distance between the playhead and second location. One would have been motivated to make such a combination because all the claimed elements were known in the prior art and one skilled in the art could have

combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

In regard to claim 11, Monohan discloses the method wherein the play head is dragged backwards (*Pg 13 Paragraph 5: drag the position indicator to the left inherently shows moving the playhead backwards*).

In regard to claim 14, Monohan discloses a computer readable medium, having disposed thereupon program instructions for a computer, the instructions configured to allow the computer to locate and playback a portion of a media file, wherein the locating and playback comprises the steps of (*Monohan is discussing the use of a program called Xpress Pro for use on computing devices. It is well known in the art that computer programs are contained on computer readable mediums and include program instructions for a computer*):

receiving from a user interface signals corresponding to positioning a cursor over a scrubber bar in a position corresponding to a location of a playhead (*Pg 13 Paragraph 3 line 2: Monohan discusses manually dragging the position indicator (playhead) through your clip or sequence. To initially select the position indicator (playhead) the pointer would have to be at a position corresponding to the position indicator (playhead)*);



receiving from the user interface signals corresponding to grabbing and moving the playhead along the scrubber bar, and playing back an audible portion of the media file in response to the movement of the playhead along the scrubber bar (*Pg 13 Paragraph 3 line 2: Monohan discusses manually dragging the position indicator (playhead) through your clip or sequence; Pg 13 Paragraph 1 and 5: Monohan discusses playing your audio at different speeds in order to locate specific frame based on what you hear. Monohan also discusses the speed of the audio depends on how quickly or slowly you drag. This shows that portions of the media are audibly broadcasted as the play head moves*).

Monohan fails to disclose wherein the cursor moves at a rate faster than the playhead such that there is a distance separating the playhead and the cursor. However Harradine discloses selecting a first position and then dragging to a second position to determine variable speed of playback (*Column 9 lines 30 -42: The shuttle speed discusses by Harradine is defined as a fast forward or rewind through the media. If the first position is clicked on the playhead then the second position will be at a further distance then the placement of the playhead*).

While Monohan teaches media scrubbing, they fail to show playing back the media at a variable speed based on the distance as recited in the claims. Harradine teaches controlling audio similar to that of Monohan. In addition, Harradine further teaches audible play back is at a variable speed determined in proportion to the distance between an initial and second location. It would have been obvious to one of ordinary skill in the art, having the teachings of Monohan and Harradine before him at

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the time the invention was made, to modify the scrubbing taught by Monohan to include the variable speed of Harradine, in order to obtain scrubbing audio with a variable speed determined in proportion to the distance between the playhead and second location. One would have been motivated to make such a combination because all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

In regard to claim 19, Monohan discloses a graphical user interface for a media viewing program executed by a computer, the graphical user interface comprising:

a scrubber bar (*Pg 13 paragraph 5: Timeline*),

a cursor being movably positionable along the scrubber bar (*Pg 13 and 14 Figure 12.17: Monohan shows an arrow cursor*),

and a playhead movable along the scrubber bar for indicating a current location in a media file (*Pg 13 paragraph 5: drag the position indicator (play head) to the right or left*).

Monohan fails to disclose wherein a playback speed of an audible portion of the media file is determined in proportion to a distance separating the cursor and the playhead along the scrubber bar. However, Harradine discloses a shuttle speed dependent on the current value of the final coordinates of pointer position minus the initial value of the coordinates of the pointer position (*Column 9 lines 30 -42: The shuttle*

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*speed discusses by Harradine is defined as a fast forward or rewind through the media).*

Monohan and Harradine are analogous art because they are both from the same field of endeavor of control of audio replay. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Harradine to Monohan invention because one of ordinary skill in the art would be motivated to provide the ability to move through large portions of media at higher speeds.

In regard to claims 7, 13, 16 and 20, Monohan fails to disclose wherein the - variable speed is limited to twice a normal playback speed. However, Harradine discusses editing a look-up table used by the shuttle speed to determine the maximum available shuttle speed (*Column 9 lines 42-54: By setting the width of the viewer window as the maximum distance to make the shuttle speed 2 times, the speed can be limited to only twice a normal playback speed. It should be understood that Harradine invention gives a user more control by allowing them to create any maximum playback speed as desired and 2 times is one of many limitations that can be applied*). Monohan and Harradine are analogous art because they are both from the same field of endeavor of control of audio replay. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Harradine to Monohan invention because one of ordinary skill in the art would be motivated to limit the speed at which the media file will progress to prevent making over shooting the

desired position within the media file. This would provide a user a precise user interface for moving through a media file at a faster rate than the normal playback rate.

In regard to claim 18, Monohan discloses the computer readable medium wherein the play head is dragged backwards (*Pg 13 Paragraph 5: drag the position indicator to the left inherently shows moving the playhead backwards*).

7. Claim 4, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monohan (Avid Xpress Pro for Windows and Macintosh: Visual Quickpro Guide) in view of Harradine (US 6342902 B1) in view of Moeller (US 5828370).

In regard to claims 4, 10, and 17, Monohan and Harradine fail to disclose broadcasting the media file at a normal speed starting from a location to which the playhead was dragged. However, Moeller discloses receiving a slider bar user input and outputting the normal play stream at the desired position (*Abstract lines 13-16*).

Monohan, Harradine and Moeller are analogous art because they are from the same field of endeavor of media playback. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Moeller to Monohan and to Harradine's inventions because one of ordinary skill in the art would be motivated to continue normal playback of media once a determined point has been reached.

***Response to Arguments***

8. Applicant's arguments filed 6/07/2007 have been fully considered but they are not persuasive.

The examiner agrees with applicant argument that Monohan does not teach "wherein the playback speed of a portion of the media file is determined in proportion to a distance separating the cursor and the play head". However, Monohan does teach selecting the playhead and scrubbing a media segment by moving the playhead along the media segment. This teaching helps motivate the combining of Monohan with Harradine.

Harradine teaches a method of moving through a media segment. Harradine further teaches shuttling through audio at a speed determined from the click of a pointer in one location to another location. It would be obvious to one skilled in the art that Harradine's teaching could be applied to Monohan's invention. In Monohan, to begin scrubbing the play head is selected. This would be the initial position in Harradine's invention. Then, to determine the speed, the mouse is dragged to a second location, either to the right or left of the playhead, and a speed is determined based on that distance separating the playhead and the second location.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

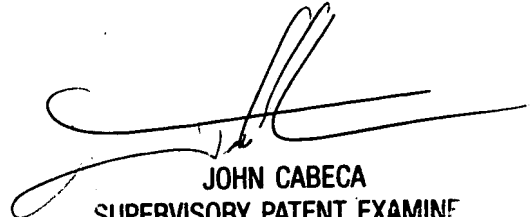
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas S. Ulrich whose telephone number is 571-270-1397. The examiner can normally be reached on M-TH 9:00 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on 571-272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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